

**REPORT/RECOMMENDATION TO THE BOARD OF SUPERVISORS
OF SAN BERNARDINO COUNTY, CALIFORNIA
AND RECORD OF ACTION**

67

June 3, 2003

FROM: **DAVID H. SLAUGHTER**, Director
Real Estate Services Department

SUBJECT: **LEASE AMENDMENTS WITH DON W. SCHMID FAMILY TRUST, 2001 DAVID SCHMID TRUST, DANIEL WALTER SCHMID TRUST, WILLIAM ROBERT SCHMID TRUST, ANDREW DAVID SCHMID TRUST, LAURA M. COOK TRUST AND M & B MCCORMICK TRUST**

RECOMMENDATIONS:

1. Approve amendments to the lease agreements listed below to:

<u>Amendment No.</u>	<u>Lease agreement No.</u>	<u>Department</u>
6	85-691	Information Services Department
4	88-570	Community Services Department
3	94-842	Human Services Department - Fraud
3	96-298	District Attorney - Fraud
2	97-24	Department of Children Services
2	97-444	Department of Aging and Adult Services
3	00-15	Community Services Department

- a. reflect a change in ownership from Richard J. Battaglia/Richard Joseph Battaglia Trust to Don W. Schmid, Trustee of the Don W. Schmid Family Trust, established October 8, 1984; David W. Schmid and Jennifer N. Schmid, Trustees of the 2001 David Schmid Trust, dated November 27, 2001; David W. Schmid, Trustee of the Daniel Walter Schmid Trust, established March 10, 1997; David W. Schmid, Trustee of the William Robert Schmid Trust, established December 30, 1998; David W. Schmid, Trustee of the Andrew David Schmid Trust, established February 6, 2001; Laura M. Cook, Trustee of the Laura M. Cook Trust, established August 9, 1996; and Mark D. McCormick and Bonnie S. McCormick, Trustees of the M & B McCormick Trust, established January 30, 1997 (Landlord);
 - b. provide for a Subordination, Non-Disturbance and Attornment Agreement between the County, Landlord, and California Bank & Trust, Landlord's lender;
 - c. change the name and address for delivery of notices; and
 - d. provide for execution of the lease agreement in counterparts.
2. Authorize the Chairman to execute each said amendment and each Subordination, Non-Disturbance and Attornment Agreement.

BACKGROUND INFORMATION: The Board previously approved seven lease agreements for various office spaces located at 606 and 686 E. Mill Street in San Bernardino. Those agreements and amendments to each agreement are summarized as follows:

Page 1 of 4

Record of Action of the Board of Supervisors

67

BOARD OF SUPERVISORS**LEASE AMENDMENTS WITH DON W. SCHMID FAMILY TRUST, 2001 DAVID SCHMID TRUST, DANIEL WALTER SCHMID TRUST, WILLIAM ROBERT SCHMID TRUST, ANDREW DAVID SCHMID TRUST, LAURA M. COOK TRUST AND M & B MCCORMICK TRUST**

June 3, 2003

Page Two of Four

67

1. **Lease Agreement No. 85-691** 686 E. Mill Street, San Bernardino

Amendment No.	Approval Date	Action
	Sept. 9, 1985	Ten-year agreement for 250 sq. ft. communication room.
1	Nov. 25, 1985	Clarified the rental schedule portion of the agreement from an annual payment to monthly rent payments.
2	April 5, 1994	Extended the term seven years and lowered the lease rate from \$383.00 to \$313.00 per month.
3	Feb. 11, 1997	Reduced the square footage from 250 sq. ft. to 219 sq. ft. and reduced the annual increases from 4% to 3%.
4	March 13, 2001	Reduced the monthly lease rate from \$333 to \$267, reduced the annual increases from 3% to 2.1%, and extended the term to December 31, 2007.
5	June 12, 2001	Provided a Subordination, Nondisturbance & Attornment Agreement between the County, the landlord, and the landlord's lender.

2. **Lease Agreement No. 88-570** 686 E. Mill Street, San Bernardino

Amendment No.	Approval Date	Action
	July 18, 1988	Five-year agreement for 10,160 sq. ft. of office space.
1	Aug. 2, 1994	Added 812 sq. ft. of office space for a total of 10,972 sq. ft. and extended the initial term in exchange for additional improvements.
2	Sept. 18, 2001	Provided a Subordination, Nondisturbance & Attornment Agreement between the County, the landlord, and the landlord's lender.
3	Feb. 12, 2002	Exercised the first of three two-year options to extend the term to July 31, 2003.

3. **Lease Agreement No. 94-842** 606 E. Mill Street, San Bernardino

Amendment No.	Approval Date	Action
	Aug. 2, 1994	Seven-year agreement for 20,821 sq. ft. of office space
1	Oct. 31, 2000	Extended the term to December 31, 2007 and reduced the monthly lease payments from \$25,079 (\$1.20/sq.ft./full service) to \$24,361 (\$1.17/sq.ft./full service).
2	Sept. 18, 2001	Provided a Subordination, Nondisturbance & Attornment Agreement between the County, the landlord, and landlord's lender.

67

BOARD OF SUPERVISORS**LEASE AMENDMENTS WITH DON W. SCHMID FAMILY TRUST, 2001 DAVID SCHMID TRUST, DANIEL WALTER SCHMID TRUST, WILLIAM ROBERT SCHMID TRUST, ANDREW DAVID SCHMID TRUST, LAURA M. COOK TRUST AND M & B MCCORMICK TRUST**

June 3, 2003

Page Three of Four

67

4. Lease Agreement No. 96-298 606 E. Mill Street, San Bernardino

Amendment No.	Approval Date	Action
	April 30, 1996	Five-year agreement for 1,700 sq. ft. of office space.
1	Dec. 12, 2000	Exercised the first and second of two three-year options to extend the term to January 31, 2007, reduced the monthly lease payments from \$1,969 (\$1.16/sq.ft./full service) to \$1,955 (\$1.15/sq. ft./full service).
2	Aug. 7, 2001	Provided a Subordination, Nondisturbance & Attornment Agreement between the County, the landlord, and landlord's lender.

5. Lease Agreement No. 97-24 686 E. Mill Street, San Bernardino

Amendment No.	Approval Date	Action
	Jan. 14, 1997	Seven-year agreement for 12,067 sq. ft. of office space.
1	Sept. 18, 2001	Provided a Subordination, Nondisturbance & Attornment Agreement between the County, the landlord, and landlord's lender.

6. Lease Agreement No. 97-444 686 E. Mill Street, San Bernardino

Amendment No.	Approval Date	Action
	June 17, 1997	Seven-year agreement for 7,886 sq. ft. of office space.
1	Sept. 18, 2001	Provided a Subordination, Nondisturbance & Attornment Agreement between the County, the landlord, and landlord's lender.

7. Lease Agreement No. 00-15 686 E. Mill Street, San Bernardino

Amendment No.	Approval Date	Action
	Jan. 11, 2000	19-month agreement for 7,819 sq. ft. of office space.
1	Sept. 18, 2001	Provided a Subordination, Nondisturbance & Attornment Agreement between the County, the landlord and landlord's lender.
2	Feb. 12, 2002	Exercised the first of three two-year options to extend the term to July 31, 2003.

By executing the Subordination, Non-Disturbance and Attornment Agreement provided for in each amendment, the County agrees to subordinate its interest in the lease to the lender's deed of trust, and to recognize and accept (attorn) the lender as the landlord in the event of a foreclosure; and, in turn, the lender or new landlord agrees to accept (not disturb) the rights and privileges of the County as tenant. The County has the right to terminate each of these leases with 90-days written notice.

67

BOARD OF SUPERVISORS

LEASE AMENDMENTS WITH DON W. SCHMID FAMILY TRUST, 2001 DAVID SCHMID TRUST, DANIEL WALTER SCHMID TRUST, WILLIAM ROBERT SCHMID TRUST, ANDREW DAVID SCHMID TRUST, LAURA M. COOK TRUST AND M & B MCCORMICK TRUST

June 3, 2003

Page Four of Four

67

All contracts and lease agreements with the County for services or facilities provided for, or to, Community Services Department (CSD) will be amended to reflect the assignment from the County to CSD, the non-profit corporation, effective July 1, 2003.

REVIEW BY OTHERS: This item has been reviewed by County Counsel (Fiona Luke, Deputy County Counsel) on January 7, 2003; HSS Administration (Darlene Bently-Hill, Interim HSS Facilities and Services Manager) on March 10, 2003; and the County Administrative Office (Daniel R. Kopp, Administrative Analyst) on May 23, 2003.

FINANCIAL IMPACT: Approval of this item will not result in additional cost. The change of ownership and the Subordination, Non-Disturbance and Attornment Agreements do not impact lease payments.

COST REDUCTION REVIEW: The County Administrative Office has reviewed this agenda item, concurs with the department's and RESD's proposal, and recommends this action because these amendments are administrative in nature and will not result in any financial change to any of the leases.

SUPERVISORIAL DISTRICT: Fifth

PRESENTER: David H. Slaughter, Director, 7-7813

MC 7-7816 bas 7-7830